



# **ADA & Effective Communication**

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# Overview

Title II of the ADA – The Basics

Program Access

- Effective Communication
- Notices
- Reasonable Modifications & Accommodations

Question and Answer





# Topics Not Covered

- Website and Information Technology
- Ticketing & Ticket Sales
- Contracts, Licenses and Certificates
- Facilities
- Public Right-of-Way
- Title I: Employment
- Title III: Public Accommodations
- Title IV: Telecommunications
- Title V: Miscellaneous Provisions (enforcement and relationship to other laws)

# ADA Overview



# The Americans with Disabilities Act (ADA)

- The Americans with Disabilities Act (ADA) of 1990 is a civil rights law that affirms and protects the rights of people with disabilities to participate in public life.
- Title II addresses requirements for public entities (28 CFR Part 35)
- Public entities must provide services, programs, and activities in a manner that is **readily accessible to and usable** by people with disabilities (see handout for more information).







# Who is protected under the ADA?

The ADA defines a person with a disability as someone who meets at least one of these descriptions:

- Has a physical or mental impairment that substantially limits one or more major life activities,
- Has a record or history of an impairment, or
- Is regarded as having such an impairment.

# Broad Coverage

The definition of “disability” is applied in favor of expansive coverage.

The primary object of attention in cases brought under the ADA should be **whether entities covered under the ADA have complied with their obligations and whether discrimination has occurred, not whether the individual meets the definition of “disability.”**

AG Order 3702-2016, [81 FR 53223](#), Aug. 11, 2016

**Invalidating** our lived experience is not a compliment.



**Telling** us we don't look Disabled only makes your ableism visible.



# Effective Communication

Ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others.





# Auxiliary Aids and Services

“Auxiliary aids and services” are the tools and supports used by people with disabilities to communicate, participate in, and enjoy the benefits of services, programs, and activities.



We call them “**Language Access Services.**”





# Language Access Program



The Language Access Program coordinates the following services for all City programs:

- Qualified interpreters
  - Translation services
  - Communication Access Realtime Translation (CART)
  - Auto-generated captioning available in all internal and public virtual meetings
  - Assistive listening systems and devices
  - Braille materials
  - Plain language consultation
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# Agency Responsibilities

Each agency **must** provide the following services directly to members of the public upon request:

1. Materials in alternative formats (large print, audio recording, electronic format, etc.)
  2. On-demand spoken and video remote interpretation (VRI), relay services
  3. Qualified notetakers, readers, and other similar services
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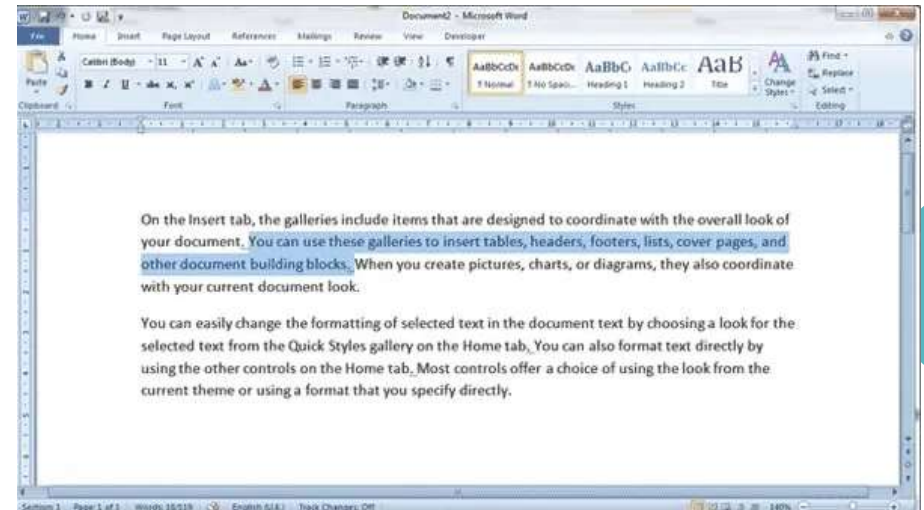
Agencies facilitate requests for Language Access Program services by emailing [lap@cityofmadison.com](mailto:lap@cityofmadison.com).

# Alternative Formats

The format needed is determined by the person with a disability.



Examples include:

- Large Print (14+ point font)
- Accessible electronic documents (readable pdf or word doc)
- Audio format (mp3 or another recorded file)
- Braille (email [lap@cityofmadison.com](mailto:lap@cityofmadison.com))





# Video Remote Interpretation (VRI) & Wisconsin Relay Services

- Insight Language Line is the On-Demand Video Remote Interpretation service used by the City of Madison to communicate with members of the public who use sign language.
    - Contact [lap@cityofmadison.com](mailto:lap@cityofmadison.com) for information about how to activate a device.
    - For training: Language Access: Using Language Line Solutions
  - Wisconsin Relay Services (711), The City of Madison must accept and respond to callers who use Wisconsin Relay Services in the same manner it accepts and responds to other callers.
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# Always offer an interpreter!

Even if the person has another adult with them who is available,

- They may not be impartial
- They may not be familiar with the terminology
- It does not afford the same level of independence as a qualified interpreter
- Speaking/Signing in-language is a different skillset than interpreting
- It's the law!

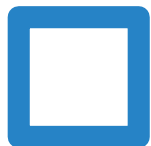




# Non-Qualified Interpreters

Under the ADA, individuals with disabilities may not be required to bring their own interpreters AND there are very specific conditions under which an accompanying person may interpret or facilitate communication:

1. The individual with the disability specifically requests that the person interpret or assist,
2. The person is an adult,
3. The accompanying adult agrees to interpret or facilitate communication, and
4. It is appropriate to rely on that person under the circumstances.



# Non-Qualified Interpreters in Emergencies



An accompanying adult or minor child may interpret or facilitate communication **ONLY** in emergencies involving

- An imminent threat to the safety or welfare of the individual or the public, and
- No qualified interpreter is available.





# Qualified Notetakers & Readers

- Qualified: A person who can read/write effectively, accurately, and impartially using any necessary specialized vocabulary.
  - Notetakers:
    - Pass notes (as opposed to verbal communication between two people)
    - Summarize/noting key information such as steps in a process or deadlines
  - Readers: Read text
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Most often, agency staff are the most qualified given the subject matter.

# Services for Companions

“Companion” includes any family member, friend, or associate of a person seeking or receiving services who is an appropriate person with whom the entity should communicate.

Examples:

Parent/guardian of child in a childcare program

Spouse or household members assisting with services for the household

Family member of a dependent adult who is accessing services







# Appropriate & Effective Services

Primary consideration **must** be given to the requests of the person with a disability.

The type of service necessary to ensure effective communication will vary based on:



- How the person with a disability communicates
  - What is being communicated (nature, length, and complexity)
  - Where and when the communication takes place
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28 CFR § 35.160



# Here to Support You

Programs should consult with the Disability Rights and Services Program if:


- You need support
  - You are not sure how to meet the person's communication needs
  - You think you may not be able to provide the requested auxiliary aid or service, and
  - **Before you deny a requested auxiliary aid or service**
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# Notices

Provide notice about the availability of accommodations and how to request them.






# Notices about Accommodations & LAP

Under the ADA, public entities are required to post notices about the availability of accommodations and how to ask for them.

Department of Civil Rights has developed standard notices.

- Include standard language on all meeting notices and invitations.
- Post office notices at front desks and include information on websites where appropriate.

*An APM with additional guidance is forthcoming.*



Why is our Notice Different than Other Cities?

- We prioritize the user's needs
- We've integrated Title VI requirements
- We use plain language



WPA will pay wages of no more than \$1.00 per hour, except where such wages are established by law or contract.





# Meeting Notices and Invitations

To request interpretation, translation or a disability-related accommodation at no cost to you, contact [agency phone] or [agency email].

Para solicitar interpretación, traducción o una adaptación especial relacionada con alguna discapacidad sin costo alguno para usted, comuníquese al [phone] o al correo [email].

如需免費提供口譯、筆譯或殘疾相關的便利服務，請聯系[phone]或[email]。

Koj muaj txoj cai tau txais kev txhais lus, kev pes lus los sis kev pab cuam txhawm rau kev tsis taus uas tsis muaj nqi rau koj: Xav paub ntxiv tiv tauj rau [phone] los sis [email].




# Last Minute Requests for Events



We do not impose a specific timeline for requesting accommodations and/or language access services.

We will work with the individual to determine the most effective communication method or accommodation from the available options.



# Reasonable Modifications & Accommodations

Any change to a policy, practice, or procedure that is necessary for a person with a disability to have equal access to the services, programs, or activities of a public entity.



# Accommodations vs. Access and Equity


Accommodations and Modifications = a rights-based approach driven by the complaint processes.

Access and Equity = working to foster a barrier-free, inclusive, and thriving Madison by implementing innovative approaches to access, inclusion, and justice both internally and in City programs, services, and facilities.




# Meeting Access Needs


Everyone has access needs.




Providing all people with the things they need to engage with programs, services, and activities is good customer service.



Builds and sustains spaces in our organizations where everyone's voice and lived experiences can be heard.



Works towards dismantling barriers, disrupting power dynamics, and building stronger communities.





If You Can Meet  
Someone's Access  
Needs...

**Do It!**

No Legal Process Required



## You Only Need to Engage the Accommodation Process if:

- More information is needed
- Financial or administrative resources are needed
- It would involve a significant change in program policy or procedure



## Elements of the Request

Person with a disability

Disability-related need

Requested  
accommodation/modification  
removes or addresses a barrier to  
access



# Qualified Individual with a Disability



People with disabilities must meet the essential eligibility requirements for programs, aid, and services.

## Example:

A person with a disability applying for the MadCap program, can request accommodations related to filling out the application, but still must meet the income requirements for the program.

## Example:

A person who buys a ticket for an event where food will be served can request a gluten-free meal.



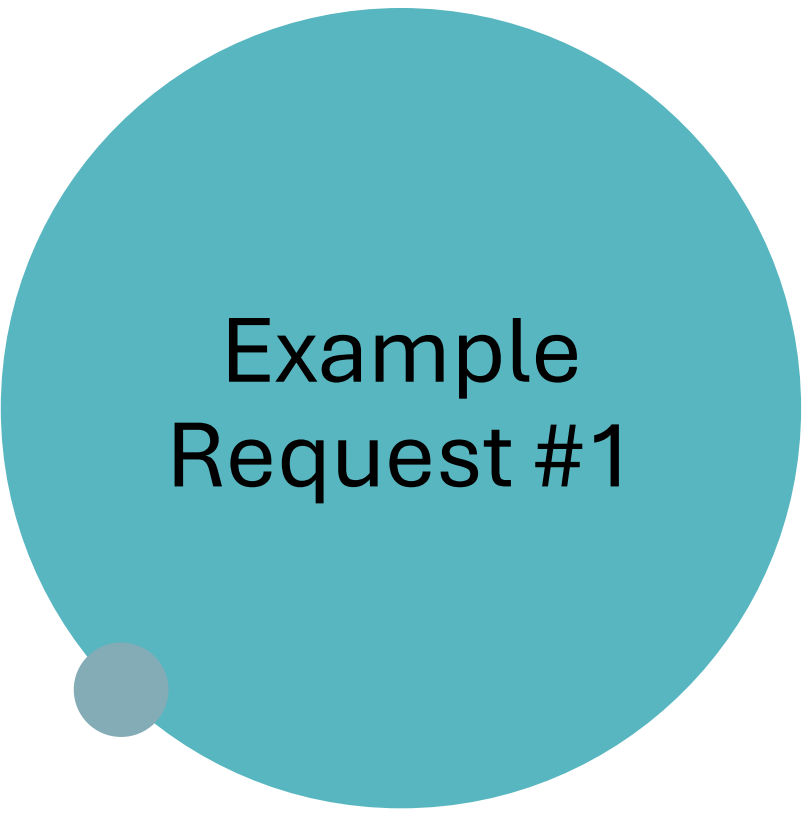


# Interactive Process



The interactive process is a dialog between the person with the disability to identify potential reasonable accommodations that could remove the barrier to access.

If the requested accommodation is not available, there may be other effective options.



## Example Request #1

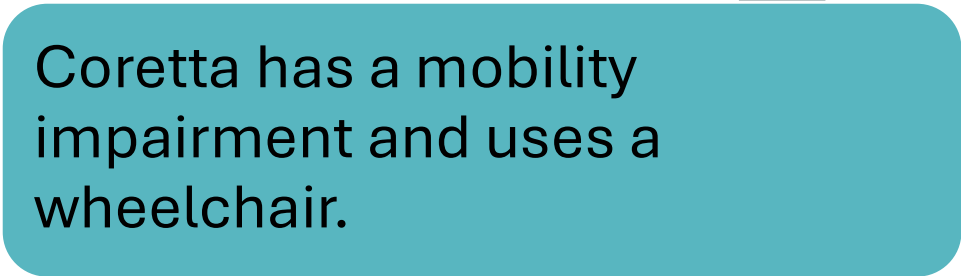
Mario has a disability.

He takes medications that make him drowsy in the mornings and he can't come to the office for his appointment on Tuesday at 9:00 a.m.

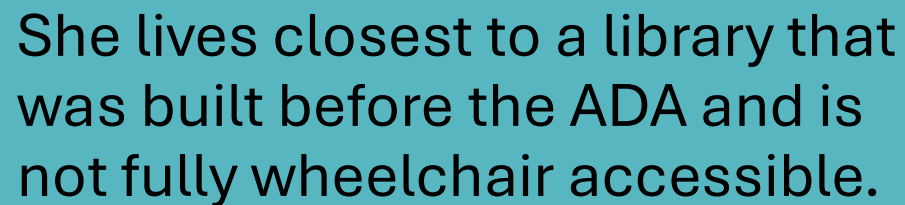
He requests an appointment later in the day or to meet over the phone.



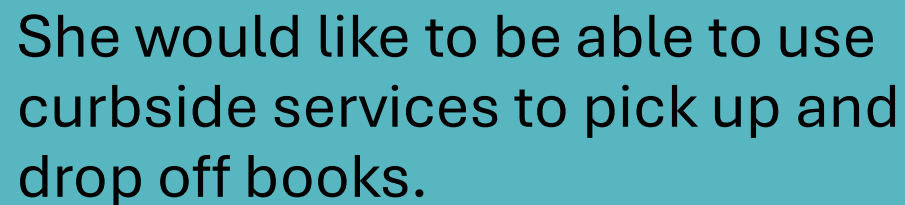
## Example Request #2



Coretta has a mobility impairment and uses a wheelchair.



She lives closest to a library that was built before the ADA and is not fully wheelchair accessible.



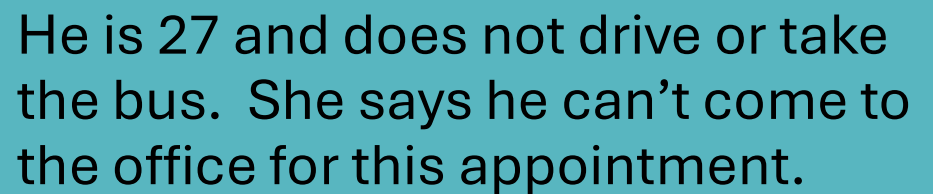
She would like to be able to use curbside services to pick up and drop off books.



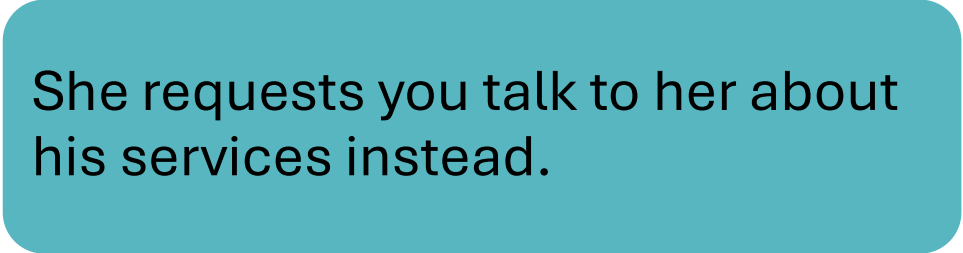
## Example Request #3



Sarah contacted your agency on behalf of her son Henry who has a disability.



He is 27 and does not drive or take the bus. She says he can't come to the office for this appointment.





She requests you talk to her about his services instead.



# When Can a Request be Denied?

A public entity may deny a modification/accommodation request when it can demonstrate it would result in:

- A **fundamental alteration** in the nature of a service, program, or activity, or
  - An **undue financial and administrative burden** (28 CFR § 35.164), or
  - Would pose a **direct threat to the health or safety** of others (28 CFR § 35.139).
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**\*Consult with the Disability Rights and Services Specialist\***

(see handout for definitions and examples)





# Navigating Challenges in the Process

Consult with the Disability Rights and Services Specialist (ADA Coordinator) if you need support:

- Obtaining more information about the person with the disability, their disability-related needs, or clarifying their request,
  - Providing the accommodation,
  - Engaging in the interactive process to explore alternatives, and/or
  - **Before you determine if a denial is appropriate.**
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# Keep in Mind

- Under the ADA, public entities are NOT prohibited from providing benefits, services, or advantages to individuals with disabilities, or to a particular class of individuals with disabilities (28 CFR § 35.130(c)).
  - There is no legal basis for a discrimination claim from an individual without a disability based solely on the fact that a person with a disability received a reasonable modification that was not offered to them (28 CFR § 35.130(i)).
  - A person with a disability is not required to accept an accommodation, aid, service, opportunity, or benefit they do not wish to use (28 CFR § 35.130(e)(1)).
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Thank you

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Language Access Program

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